



SENATE REPUBLICAN

POLICY COMMITTEE

Legislative Notice

No. 38

November 15, 2007

H.R. 4156 – Democrat Supplemental Appropriations Act for the Department of Defense for Fiscal Year 2008

Calendar No. 507

H.R. 4156 was received from the House on November 15, 2007, and placed on the Senate Calendar with no accompanying report.

Noteworthy

- Per a unanimous consent agreement, the Senate will vote on cloture on the motion to proceed (MTP) to S. 2340 on Friday. If cloture fails, the Senate will then vote on cloture on the MTP to H.R. 4156.
- H.R. 4156 provides \$50.0 billion in emergency appropriations with various stipulations. The Administration requested \$191.0 billion in supplemental appropriations for the entire fiscal year 2008 for the Global War on Terror.
- Title I is comprised of general provisions that include a variety of requirements meant to transition the mission of U.S. Armed Forces in Iraq and begin their withdrawal, including:
 - Limiting all interrogations of persons in U.S. custody (including those held by the CIA) to those approved in the current Army Field Manual on Interrogations;
 - Requiring that the president certify “any unit” deploying to Iraq as “fully mission capable” 15 days before deployment;
 - Requiring that the president start withdrawing troops within 30 days, with a “goal” of completing the withdrawal by December 15, 2008; and
 - Limiting combat missions to “targeted” counter-terrorism after December 15, 2008.
- Title II provides \$50.0 billion in emergency supplemental funding for the Global War on Terror.
- On November 14, the House passed H.R. 4156 by a vote of 218-203-1.
- On November 14, the White House issued a veto threat against the bill based upon multiple provisions in the bill, including Title I.

Background

Per the request of Congress, the President submitted an FY08 emergency supplemental appropriations request for the Global War on Terror with the FY08 budget request in February. At the time, the Administration requested \$145.14 billion in emergency funds for FY08 with the expectation that the Administration would amend its request later in the year. On October 19, the Administration amended its initial request by increasing the request amount by \$45.9 billion, for a total of \$191.04 billion for FY08 supplemental appropriations for the Global War on Terror.

Bill Provisions

Title I – Policy on Redeployment and Conduct of Operations in Iraq

Section 101. Sense of Congress: Expresses the Sense of Congress that, among other things, the primary purpose of funds in H.R. 4156 should be to transition the mission of the United States Armed Forces in Iraq and undertake their redeployment.

Section 102. Permissible Interrogation Techniques: Provides that only the interrogation techniques approved in the current Army Field Manual may be used to interrogate persons in the custody of the U.S. government; the provision does not apply to persons held pursuant to criminal or immigration law.

Section 103. Convention on Torture: Provides that funds in the bill cannot be used in contravention of the various laws and regulations implementing the United Nations Convention Against Torture.

Section 104. Units Must Deploy “Fully Mission Capable: Provides that before “any unit” of the military can deploy to Iraq, it must be certified “fully mission capable” under the Defense Department Readiness Reporting System 15 days prior to deployment. The President can waive this requirement on a unit-by-unit basis if national security requires that the unit deploy at a lesser level of readiness; the President must submit to Congress a certification and report explaining the basis of the waiver.

Section 105. Withdrawal Date and Mission Transition: Provides a variety of restrictions on military deployments and operations in Iraq, including:

- The funds in this bill can only be used for a “safe and orderly” withdrawal of U.S. forces from Iraq, which must start within 30 days;
- The withdrawal must occur in conjunction with a strategy of engaging other countries to bring stability to Iraq, a recommendation of the Iraq Study Group;
- The “goal for completion” of the withdrawal is December 15, 2008;

- Stay-behind forces are limited to diplomatic and force protection, training and support to the Iraqi security forces, and targeted counterterrorism; and
- Extensive reporting requirements are imposed on the President and Secretary of Defense.

Title II – Supplemental Appropriations

H.R. 4156 provides \$50.00 billion to the Department of Defense for contingency operations related to the Global War on Terror. It is unclear where the \$50.00 billion amount comes from as the Administration did not request this amount.

Military Personnel: Provides \$1.00 billion for the Department’s Military Personnel.

| Military Personnel (in millions) | H.R. 4156 |
|---|------------------|
| Army | \$ 713.7 |
| Navy | 95.6 |
| Marine Corps | 56.1 |
| Air Force | 138.0 |
| Total | 1,003.41 |

Operation and Maintenance: Provides \$43.21 billion for Operation and Maintenance accounts in support of Operation Iraqi Freedom and Operation Enduring Freedom. This spending provides funds for the incremental cost of ground operations, flying hours, logistics support, fuel, travel, and transportation. The majority of the “surge” costs are operation and maintenance costs.

| Operations and Maintenance (in millions) | H.R. 4156 |
|---|------------------|
| Army | \$27,429.5 |
| Navy | 2,071.6 |
| Marine Corps | 2,429.3 |
| Air Force | 3,582.6 |
| Defense-wide | 1,330.5 |
| Army Reserve | 61.2 |
| Navy Reserve | 47.5 |
| Marine Corps Reserve | 26.2 |
| Air Force Reserve | 8.1 |
| Army National Guard | 378.4 |
| Air National Guard | 34.4 |
| Afghanistan Security Forces Fund | 500.0 |
| Iraq Security Forces Fund | 500.0 |
| Iraq Freedom Fund | 3,168.0 |

| | |
|-----------------------|----------|
| Joint IED Defeat Fund | 1,638.5 |
| Total | 43,205.8 |

Procurement: Provides \$5.14 billion for procurement in various procurement accounts. This spending provides funds for force protection equipment, the restoration of equipment lost in operations, the recapitalization of equipment used in operations, and the equipping of units supporting upcoming rotations.

| Procurement (in millions) | H.R. 4156 |
|--|------------------|
| Army Aircraft | 302.2 |
| Army Missile | 0.00 |
| Army Weapons and Tracked Combat Vehicles | 1,574.2 |
| Army Ammunition | 154.0 |
| Army Other | 1,976.1 |
| Navy Aircraft | 25.3 |
| Navy Weapons | 0.00 |
| Navy and Marine Corps Ammunition | 0.00 |
| Navy Other | 88.3 |
| Marine Corps Procurement | 729.2 |
| Air Force Aircraft | 147.8 |
| Air Force Missile | 0.00 |
| Air Force Ammunition | 0.00 |
| Air Force Other | 42.1 |
| Defense-wide | 102.6 |
| National Guard and Reserve Equipment | 0.00 |
| Total | 5,141.8 |

Other Department of Defense Programs: Provides \$649.0 million for a range of Department programs. This funding includes: \$599.0 million for operation and maintenance; and \$50.0 million for research, development, test and evaluation, which is only for peer-reviewed research on traumatic brain injury and psychological health, including post-traumatic stress disorder.

General Provisions

- Section 202 provides the Secretary of Defense with transfer authority up to \$4.0 billion.
- Section 205 provides up to \$500.0 million for the Commander's Emergency Response Program (CERP) in Iraq and Afghanistan.

- Section 309 requires the Secretary of Defense to provide a report, every 90 days, to Congress with a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.
- Section 210 provides that no funds may be expended to establish a permanent military base in Iraq, or exercise control over any oil resource of Iraq.

Administration Position

The White House issued a Statement of Administration Policy (SAP) on November 14, 2007. The SAP included a veto threat, because “H.R. 4156 unwisely abandons the cause of freedom and stability in the Middle East, fails to recognize the importance of collecting intelligence to protect the American people, contravenes the Constitution, and fails to recognize and respect the achievements and sacrifices of the men and women who serve in our Armed Forces.”

The SAP states that the Administration strongly opposes the following provisions:

- “any provision that sets an arbitrary date to begin withdrawing American troops without regard to conditions on the ground or the recommendations of commanders in the field”;
 - Section 105(d) of H.R. 4156 sets a withdrawal date of December 15, 2008.
- “section 104 of H.R. 4156, which would restrict the President’s ability to deploy troops unless he has certified in writing at least 15 days in advance that the unit is ‘fully mission capable’”; and
- “section 102 of H.R. 4156, which would require the CIA to use only those interrogation techniques authorized by the United States Army Field Manual on Interrogations.”

Cost

Budget Authority:

(amount in millions)

| | |
|------------------|----------|
| Fiscal Year 2008 | \$50,000 |
|------------------|----------|

Outlays:

(amount in millions)

| | |
|-------------------------------------|----------|
| Fiscal Year 2008 | \$27,763 |
| Fiscal Year 2009 | 15,162 |
| Fiscal Year 2010 | 4,765 |
| Fiscal Year 2011 | 1,435 |
| Fiscal Year 2012 (and future years) | 676 |

Possible Amendments

No amendments were known at press time.